

ITEM NO.39

COURT NO.5

SECTION X

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition(s)(Civil) No(s). 1053/2022

CURE SMA FOUNDATION OF INDIA & ORS.

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(FOR ADMISSION)

Date : 05-12-2022 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE M.R. SHAH

HON'BLE MR. JUSTICE C.T. RAVIKUMAR

For Petitioner(s) Mr. Rajat Mittal, AOR
Ms./Mr. Suprateek Neogi, Adv.

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

By way of this petition filed under Article 32 of the Constitution of India in the nature of Public Interest Litigation (PIL), the following prayers/reliefs are sought :

(a) Pass a writ of and/or writs in the nature of mandamus directing the respondent to completely exempt drugs for treatment of rare diseases from the levy of IGST, CGST, SGT and Custom Duty;

(b) Pass a writ of and/or writs in the nature of mandamus directing the respondents to permit import the drugs for treatment of SMA directly without approaching the Centre of Excellence;

(c) Pass such further or other orders(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

So far as prayer (a) is concerned, ultimately it is for the Government to take a policy decision whether to completely exempt drugs for treatment of rare diseases from the levy of IGST, CGST, SGT and Custom Duty. No writ of mandamus can be issued directing the respondent/Union of India to exempt the drugs from payment of any tax or custom duty.

So far as prayer (b) is concerned, no relief can be granted. No writ of mandamus can be issued directing the respondents to permit import the drugs for treatment of SMA directly without approaching the Centre of Excellence. There may be number of reasons why the drugs are to be cleared by the Centre of Excellence.

In view of the above, the petitioners are not entitled to any reliefs as prayed for in the instant writ petition.

With this, the writ petition stands dismissed.

However, it will be open for the petitioners to make a representation to the Union of India/Ministry of Health.

Pending interlocutory application(s), if any, also stands disposed of.

(SANJAY KUMAR-II)
ASTT. REGISTRAR-cum-PS

(NISHA TRIPATHI)
ASSISTANT REGISTRAR